

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v

Case No. 01-20034-02
Honorable Thomas L. Ludington

DEREK DUANE RILEY,

Defendant.

ORDER DENYING AS MOOT MOTION FOR RECONSIDERATION

On October 12, 2001, an indictment was returned against Defendant Derek Duane Riley followed by a superseding indictment on October 24, 2001 (“2001 Case”). ECF Nos. 3, 12. The superseding indictment charged Riley with two counts of distribution of cocaine base, one count of distribution of cocaine, one count of distribution of marijuana, one count of possession of a firearm by a felon, one count of possession of a firearm in furtherance of a drug trafficking crime, and possession of a firearm with its serial number removed.

On January 11, 2002, the parties entered into a Rule 11 Plea Agreement which provided that Riley would plead guilty to Count 1 of the superseding indictment. ECF No. 16. On May 2, 2002, Riley was sentenced to 121 months of incarceration and 8 years of supervised release. ECF No. 21. On April 30, 2009, Riley’s sentence was reduced to 120 months of incarceration and 8 years of supervised release pursuant to 18 U.S.C. §3582(c)(2).

I.

On October 12, 2016, an indictment was returned against Riley in a new case (the “2016 Case”). Case No. 16-cr-20677. It charged Riley with one count of conspiracy to possess and distribute cocaine and heroin and one count of possession with intent to distribute cocaine base,

cocaine, and heroin. Riley ultimately pleaded guilty to the first count of the indictment and was sentenced to 160 months in custody. Case No. 16-cr-20677, ECF Nos. 105, 169.

On September 9, 2016, a supervised release violation petition was filed in the 2001 Case. ECF No. 45. It alleged that Riley violated his supervised release by committing the underlying offense from the 2016 Case. ECF No. 45. A consolidated plea acceptance and sentencing hearing was conducted. ECF No. 50. Riley pleaded guilty to violating his term of supervised release and was sentenced to 30 months of incarceration, to be served consecutive to the 160-month sentence of the 2016 Case. ECF No. 54.

II.

On January 17, 2019, Riley sent the Public Defenders Office a letter seeking assistance “in obtaining an assessment of whether or not the First Step Act of 2018, Section 404 applies to my case, e.g. 1:01-cr-20034-DML-1; and 16-CR-20677.” A copy of the correspondence was docketed on January 22, 2019 as a motion for First Step Act Relief. ECF No. 69. A federal community defender was appointed to represent Riley. ECF No. 72. On October 16, 2019, attorney Andrew N. Wise filed an appearance on behalf of Riley. ECF No. 73.

The Court determined that Riley was not eligible for relief under the First Step Act in the 2016 case and denied his motion. The parties subsequently submitted a stipulation providing that Defendant was eligible for relief under the First Step Act in this case (the 2001 case) and that his sentence should be reduced to one day. ECF No. 76. The Court accepteded the stipulation on June 24, 2020 and reduced Defendant’s sentence from 30 months to one day. ECF No. 77.

Defendant has now filed a motion for reconsideration, asking the Court to “grant a full resentencing to fully address all of the stipulations that greatly affect my case.” ECF No. 79.

However, no further relief is available for Defendant. His sentence in this case has been reduced from 30 months to one day. It cannot be reduced further.

III.

Accordingly, it is **ORDERED** that Defendant's motion for reconsideration, ECF No. 79, is **DENIED AS MOOT**.

Dated: July 22, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Derek Duane Riley** #26031-039, MILAN FEDERAL CORRECTIONAL INSTITUTION, Inmate Mail/Parcels, P.O. BOX 1000, MILAN, MI 48160 by first class U.S. mail on July 22, 2020.

s/Kelly Winslow
KELLY WINSLOW, Case Manager